

EMERGENCY SAFETY INTERVENTION IN THE FORM OF PHYSICAL MANAGEMENT

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Senate Bill 227 (S-1) as passed by the Senate
Sponsor: Sen. Dan Lauwers
House Committee: Health Policy
Senate Committee: Health Policy
Revised 10-31-23

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Senate Bill 227 would amend the child care licensing act, 1973 PA 116, to allow emergency safety intervention in the form of physical management in certain child care organizations and to require that such interventions comply with the Mental Health Code and associated administrative rules.

Children's therapeutic group homes

The bill would amend the definition of the term *children's therapeutic group home* for purposes of the act. Currently, a children's therapeutic group home is defined as a child caring institution that receives up to 6 children¹ diagnosed with a developmental disability or severe emotional disturbance and meets the following requirements:

- Provides care, maintenance, and supervision, usually on a 24-hour basis.
- Is not a private home.
- Is not located on a campus with other licensed facilities.
- Complies with the rules for child caring institutions, except that behavior management rooms, personal restraint, mechanical restraint, or seclusion, allowed under those rules in certain circumstances, are prohibited in a children's therapeutic group home.

The bill would revise the last bulleted item to define a children's therapeutic group home as a child caring institution that meets the other requirements described above and complies with the rules for child caring institutions. The bill would add that emergency safety intervention in the form of physical management is allowed but must comply with the Mental Health Code and associated administrative rules.

Psychiatric residential treatment facilities

The bill would add a definition for the term *psychiatric residential treatment facility* that provides the following:

Psychiatric residential treatment facility means a facility other than a hospital that provides psychiatric services, as described in 42 CFR 441.150 to 441.184, in an inpatient setting to individuals under the age of 21. Emergency safety intervention

¹ The bill would use the term "children" here, instead of the defined term *minor children*, which would exclude individuals over the age of 18 who are defined as *minor children* for certain facilities under the act.

in the form of physical management is allowed but must comply with the Mental Health Code and associated administrative rules.

Scope of sections 2b to 2e

Sections 2b to 2e of the act provide guidelines, limitations, and requirements regarding the use of personal restraint or seclusion. The act currently provides that those sections apply only to a child caring institution that contracts with or receives payment from a community mental health services program or prepaid inpatient health plan for the care, treatment, maintenance, and supervision of a minor child in that child caring institution. The bill would remove this limitation.

Emergency safety intervention

For purposes of sections 2b to 2e, the term *emergency safety intervention* is defined to mean use of personal restraint or seclusion (both also defined in the act) as an immediate response to an emergency safety situation. The bill would add that use of personal restraint as an emergency safety intervention is not child abuse or child neglect unless it meets the definition of either of those terms in the Child Protection Law.

Seclusion

For purposes of sections 2b to 2e, the term *seclusion* is defined to mean, with some exclusions, the involuntary placement of a minor child in a room alone, where the minor child is prevented from exiting by any means, including the physical presence of a staff person who is there for the sole purpose of preventing the minor child from exiting the room. The bill would add that *seclusion* does not include techniques for therapeutic de-escalation.

Child caring institutions

Section 2c of the act now provides that a child caring institution that contracts with and receives payment from a community mental health services program or prepaid inpatient health plan for the care, treatment, maintenance, and supervision of a minor child in that child caring institution may place a minor child in personal restraint or seclusion only as provided in sections 2c, 2d, and 2e, but cannot use mechanical restraint or chemical restraint (defined in the act).

The bill would instead provide that child caring institution described above must comply with the rules for child caring institutions, and that emergency safety intervention in the form of physical management is allowed but must comply with the Mental Health Code and associated administrative rules.

Training

The bill would remove provisions from section 2c that now require a child caring institution that contracts with and receives payment from a community mental health services program or prepaid inpatient health plan for the care, treatment, maintenance, and supervision of a minor child in that child caring institution to provide its staff with ongoing education and training in the use of personal restraint and seclusion and related topics.

MCL 722.111, 722.112b, and 722.112c

FISCAL IMPACT:

Senate Bill 227 would have no direct fiscal impact on the state or local units of government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.